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Ozarow, Daniel ORCID logoORCID: <https://orcid.org/0000-0001-6695-9984> (2017) A foot on each side of the picket-line: the contradictory role of labour unions in South American governance. In: Handbook of South American Governance. Riggiozzi, Pia and Wylde, Christopher, eds. Routledge International Handbooks . Routledge, pp. 248-261. ISBN 9781857438185. [Book Section]

Final accepted version (with author's formatting)

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A Foot on Each Side of the Picket-line: The Contradictory Role of Labour Unions in South American Governance

There are few places in the world where the organised labour movement has been able to play such a decisive role in the political and economic arena as South America. Yet the *unions themselves* have played a contradictory role in this process. On the one hand they have mobilised and radicalised workers against capital, yet on the other they are presented as having constrained workers' self-organisation, depoliticised the movement and prevented the widespread emergence of a revolutionary consciousness among the region's working class. Sometimes its leaders have even collaborated with employers and highly coercive governments *against* workers' collective interests. Unions have effectively placed one foot on each side of the proverbial picket line.

A second contradiction is that labour unions' disproportionate influence on the institutions of governance in the region continues to defy its weak bargaining position in relation to capital; Relatively low union density, 'enterprise-based' industrial relations models everywhere bar Argentina, Brazil and Uruguay (that limit collective bargaining to *company* rather than *industry* level), high levels of economic informality and exclusion (which deter swathes of the working class from taking collective action) and labour's reliance on the state for its power and privileges represent acute constraints upon union attempts to defend worker interests. Paradoxically, labour has historically possessed a strong capacity to paralyse the production process and continually force elites to offer improved wages and conditions. Unions are often highly politicised and regularly extend their demands beyond workplace concerns to pressure state institutions, extra-governmental organisations and public opinion in pursuit of broader political aims. Another contradiction is that the labour legislation that exists in South America is perhaps the strongest in the world in terms of

protecting both collective and individual rights, yet the weak rule of law often permits both private employers and the state itself to violate legislation with virtual impunity.

The dilemma of governance that this chapter seeks to address is how ruling *elites* in South American countries have perpetually sought to tame the autonomous and emancipatory potential of organised labour whilst unions have often resisted yet sometimes been complicit in this process. It will explore why different governance strategies have been implemented at various stages during the twentieth century (corporatism, military dictatorship and democracy accompanied by neoliberalism and then post-neoliberalism) and will examine how either granting concessions, co-opting or repressing the movement via the institutions of the state or civil society have been chosen. The dynamics of this dialectic are examined and its contradictions explained through the interplay between the multiple layers and distinct modalities of governance at international, regional, national-based levels of policy. Certain developments in labour governance have been highly notorious in some countries but barely observable in others so the chapter analyses its broad episodes both thematically and chronologically.

Shaping labour governance characteristics under ISI (1900s-1950s)

Several features of South America's state formation processes and industrial development had a profound impact on the evolution of the region's labour law, industrial relations and governance practices.

First, a cultural legacy of state intervention and bureaucracy from Spanish and Portuguese colonial rule following independence in the nineteenth century helps to explain the indelible legacy of state regulation in both the labour market and union affairs, and why comprehensive labour codes were developed to protect both individual and collective worker rights (Bronstein 2010:18). Influenced by French and Spanish colonial constitutions, and

more concretely, Italy's Mussolinian Rocco Act (1926) and the USA's National Labor Relations Act (1935) in the southern cone countries, early labour legislation was pragmatically conceded to workers' movements' by urban bourgeoisie leaders at a time when the rural oligarchies were losing control and they needed to construct alliances with the urban proletariat against the latifundista landowners. For instance in 1905 Sunday was introduced as a rest day in Argentina and Colombia, and the eight-hour day became law in Uruguay and Ecuador in 1915 and 1916 respectively. In 1924, Chile adopted one of the first ever laws on the contract of employment. By the early-1950s labour codes were adapted in every country in South America.

Secondly, labour became a central political actor in national affairs across the region because the course of Latin American development did not produce a strong, national capitalist class due to foreign capitalists having played such a dominant role in the still 'semi-colonial' economies. Generally the domestic bourgeoisie remained weak, which resulted in both increased *recognition* for organised labour and real *opportunities* for the working class to assert political leverage over national governments in resisting foreign capital during the first half of the twentieth century. The kind of governance project that emerged in each nation state was influenced by the balance of forces between capital and labour. The most common, 'corporatism' and 'military dictatorship' both entailed degrees of totalitarianism. When these elites believed alliances with the domestic bourgeoisie would prove fruitful, several South American countries established populist, 'labour-friendly' corporatist regimes (where the military played a central role) in which those who governed did so as pro-industry nationalists and as a means of preventing both autonomous labour organising and the threat of the communist revolution (or at least its influence from spreading among the workers, a very real possibility in the context of the Cold War). However, in those countries where the working class had become especially large or powerful and the middle class felt threatened,

the latter aligned itself with the military or landed elites to establish anti-labour authoritarian regimes (Nun 1967). Corporatism was achieved by seeking accommodation with the unions and co-opting the dominant sectors of the labour movement whilst excluding or even suppressing its anarchist (and certain socialist or communist) federations from legal recognition or state patronage. The corporatist Estado Novo regime of General Getúlio Vargas in Brazil (1937-45) and that of General Juan Perón in Argentina (1946-55) offer examples whereby formal pact-making was performed between business and the unions, with the state as mediator. Markets were closed to international competition (partly to protect jobs) and industrial concentration was high (Bronstein 2010:22). Although the populist regimes that implemented these policies alongside an economic model of Import-Substitution Industrialisation (ISI)ⁱ were able to advance the interests of official labour unions, significantly improving their wages and conditions, these were rarely simply gifted by pro-labour governments but had to be fought for by workers themselves through strikes and other disruption to the production process. Thus many workers developed what Lenin described as a ‘trade union consciousness’ (1901) by which they deemed that an apparently supportive state offering such benefits was understood as desirable compared to the risks (such as a violent backlash) associated with the revolutionary overthrow of the ruling class that communism proposed as a means of worker emancipation from exploitation.

Nevertheless, the dialectic of state-coordinated ISI was such that it helped to cultivate many of the economic, social and political conditions that simultaneously protected workers against foreign competition whilst also moulded labour into a highly-mobilised actor that was accustomed to taking industrial action or occupying factories in pursuit of its aims. The state itself would later have to contain these by seeking recourse to more coercive governance projects. The model entailed an explosion in the size of both the working class and labour union membership as industry expanded. In different countries and at certain points in time,

governments had to choose whether to violently suppress, compromise or completely accommodate organised labour's demands. The former was most likely to occur either when labour was deemed to have become too highly autonomous or difficult to co-opt, or when the bourgeoisie deemed it more profitable to ally with foreign capital, (usually slightly later) from the 1960s-1980s and entailed different forms of military dictatorship. Under such circumstances 'bureaucratic authoritarian' regimes were usually established, with the explicit intention of destroying labour organisations in their entirety as the only means of taming their 'excessive' wage demands which they believed were creating inflation, economic and social instability and an unfavourable investment climate (Collier and Collier 1991:43). Such alternatives to corporatist populism and ISI will be elaborated upon later.

The impact of labour shortages that resulted from ISI due to the expansion in demand for manufactured goods in the world economy was the third factor affecting South American labour governance during the first half of the twentieth century. This tendency was especially acute in the southern cone where both the state and some employers began to adopt more subtle methods to dilute labour's growing potency by increasing the supply of labour. This was done either by a) assimilating women into the workforce (a key labour governance tactic as it both accommodated popular contemporary demands for women's equality whilst placing downward pressure on wages). However it also induced gender tensions which would divide some workplaces (Brown 1997:6) to the benefit of their capitalist owners. b) encouraging migration from the countryside to the industrial centres (which the elites hoped would help to pacify and dilute an increasingly radical workforce because rural migrants were accustomed to submissive patron-client work relationships and because by increasing the supply of labour in the cities, it would make workers easier to replace and so reduce their bargaining power and militancy (Brennan 1994:85) or c) encouraging immigration. In the southern cone where labour shortages remained problematic, governments designed programmes to attract skilled

European immigrants to its urban centres. The contradiction of this policy was that they often inadvertently “imported” revolutionary ideologies like anarchism, syndicalism and communism which many of these immigrant workers (especially political exiles from Fascist Italy and Francoist Spain and Stalinist Russia in the 1920s and 30s) advocated, as well as their union organising methods (Spalding, 1977:10).

Fourthly, despite the best efforts of the architects of ISI to strengthen domestic capital’s position in relation to western elites, each of South America’s economies remained highly dependent on the prosperity of their key primary sector export markets for economic growth. These enabled capital accumulation and the required foreign exchange earnings to import the necessary capital and technology to aid national development. Structuralists argue that workers in these natural resource extraction industries gained the political and economic leverage which placed them in a strategic position to influence the attitudes and actions of the rest of the labour movement. In cases where the relative national importance of such exports to the overall economy was greater, so was organised labour’s capacity to obtain a strong bargaining position with the government vis-à-vis policies promoting worker interests. For instance such was the centrality of oil exports to Venezuela’s economy that a prolonged strike by these workers during 1936 eventually led to major welfare concessions from its government. The implications for labour governance largely depended upon whether workers in these key-export sectors chose to become a vanguard for general worker interests or elevated themselves to the position of ‘labour aristocracy’ as Venezuela’s oil workers did later on (Ellner 1993:144). In the latter case they would act as an exclusive ‘enclave group’ without asserting pressure on the state to extend their hard-fought privileges to the rest of the working class, whom in line with the main theme of this chapter, they had effectively ‘sold out’. A key task of the state became the isolation and co-option of these influential and

powerful labour movement sectors so as to prevent them from radicalising their fellow workers nationally.

Up until the mid-twentieth century, capitalist elites generally tolerated labour unions, especially in countries where their authority was more established and they felt less of a threat. This was because union demands tended to be restricted to workplace issues, given that they were excluded from the political process. This changed once universal suffrage was granted as workers became an electoral constituency for political parties and elites that were competing for power (Murillo 2003:101). The success of labour's political strategies at this stage depended both on whether their political allies (in particular pro-labour parties) held power or were in opposition and also on whether the union itself was strong enough to assert its demands. Many national labour unions became allied or affiliated to political parties (e.g. the Workers Confederation of Peru (CTP) with the American Popular Revolutionary Alliance (APRA) and the Chilean Workers Federation (FOCH) with the Communist Party and Socialist Party). In Argentina under Peronism and its corporatist model, it even led to the collective bargaining agreements becoming compulsory between its corporatist ally the General Workers Union (CGT) in 1952. This single-union system both helped to endow all workers with significant improvements in living standards and rights, whilst also excluding certain workers (e.g. anarchists) who remained outside the CGT from representation, leading the Socialist Party to accuse Peronism of "totalitarian interference in union affairs", "failing to support freedom of affiliation" and also of "preserving capitalist exploitation and class division" at its XXXVI National Congress (Partido Socialista, 1948).

Yet when the allied party was in opposition as was the case in Chile until the late-1930s, governments would curtail unions for instance by legislating to restrict them to organising at company, not industry-wide level. Opening up another contradiction, suffrage and the expansion of political rights was supposed to pacify labour, but in many cases

actually led to unions' demands broadening to cover social rights, welfare and political exigencies. This heightened the threat to the existing capitalist order and in certain cases outlined in the following section, eventually provoked a brutal backlash from the state (Spalding 1977).

In terms of labour governance systems that were to evolve in the post-suffrage stage of political development in South America, Ruth and David Collier (1991) provide several fascinating path-dependent insights in their comparative analysis (see Table 1) of how social and economic conditions impacted on the emergence of respective national labour movements in the early-twentieth century. Based on a study of many of the variables discussed here, they found that Argentina developed the most favourable conditions, closely followed by Chile and Uruguay, then Brazil, with Colombia and Venezuela possessing the weakest. Strikingly those four countries that possessed more conducive conditions for a powerful organised labour movement to emerge (and a greater potential 'threat' to the bourgeois order) were precisely the ones in which the ruling class first responded by seeking to co-opt labour (1930s-60s), then forcibly crush it later on through authoritarian means (1960s-80s). Yet the two weakest examples (Colombia and Venezuela), remained democratic throughout, bar only short periods of military rule (1953-57 and 1952-58 respectively). Political pacts (the *Frente Nacional* and the *Pacto de Punto Fijo*) were agreed upon between political elites, including labour-aligned political parties. The next section analyses labour unions and subsequent patterns of governance in each country in these respective regimes.

Table 1: Conditions supportive of labour development (early-1900s)

	Argentina	Chile	Uruguay	Brazil	Peru	Colombia	Venezuela
Working class size	4	2	1	4	0	1	0

Economic indicators	4	3	3	2	0	1	0
Urbanisation	3	3	4	0	4	1	3
Enclave industries	0	4	0	0	4	2	0
European immigrants	4	2	4	4	1	1	1
Labour surplus	3	2	3	2	1	1	2
Total	17	16	15	12	10	7	6

Source: Adapted from Collier and Collier (1991). Scores given to estimated ‘favourability’ of conditions: 4 = very favourable, 0 = Very unfavourable.

Containing the genie: Unions under dictatorships, corporatism and pacted democracies (1960s-70s)

Labour unions’ grew and rapidly developed more pronounced political critiques of society at the same time that universal suffrage was gained in the region. Consequently, governments of all persuasions had to both demobilise labour unrest, while also treating the unions and their members as a potential electoral constituency. Thus, by the 1950s, organised labour had become an important, often radical and highly influential social actor in South American governance and even those governments that were far from pro-labour found themselves having to ensure them basic protections such as minimum salaries and vacations. Many workers soon realised that pressuring governments into granting such concessions was more achievable than collective agreements with their employers at factory level, given that union densities were low. This politicised the movement further and in the contemporary context of political volatility, economic protectionism and state interventionism, embedded a

culture of national demand-making to governments being prioritised over local shop floor organising that endures today among South American unions.

Controversially, Labour itself was far from the consistent champion of democracy that is often depicted by influential scholars (Rueschemeyer, Stephens and Stephens 1992). Its support for democracy after 1945 depended upon both the nature of their partisan political alliances and whether labour leaders believed that alternative regime types to democracy would deliver greater organisational or worker benefits than democratic ones. For example the Peruvian Workers Confederation (CTP) did not actively resist General Juan Velasco's (1968-75) left-wing military government and several Peronist union leaders such as the CGT Secretary, Jose Alonso supported General Onganía's 1966 military coup in order to weaken their main political rival, the Radical Civic Union. To this degree, South American labour movements were what Levitsky and Mainwaring (2002) describe as "contingent democrats" in that they mobilise to support democracy only when it is in their material or organisational interests. This represents perhaps the most explicit example we have seen yet that its unions have operated with one foot each side of the picket.

So how can the distinct patterns of labour governance regimes that emerged in South America in the latter-twentieth century be explained? First, the fact that industrialisation occurred within a much faster timeframe in Latin America than in Europe had intriguing consequences. Although the labour movement was strengthened by being able to import European political ideologies and strategies for workplace organisation rather than have to 'discover them' like their European comrades, rapid industrialisation also implied a weakness because it meant that workers' collective learning experience was cut short. Thus, the development of a strong class-consciousness that long-term struggle permits did not occur (Spalding 1977). This stunted possibilities for labour unions to grow autonomously and cultivated an attitude of class compromise among South American unions which made them

more susceptible to the appeal of corporatism and pact-making with the domestic bourgeoisie than most of their western European counterparts.

However, in co-opting a privileged sector of workers, the corporatist governance model has ultimately served to significantly fragment and divide the labour movement. Even today, in Argentina the state does not grant alternative labour union confederations such as the Argentinean Workers Central (CTA) legal recognition to represent workers. However, their exclusionary nature (which union confederations that benefit from state patronage are complicit in) act to the detriment of workers 'as a class', benefitting both foreign and domestic capital.

Bergquist (1986:12) observes the how patterns of governance were also influenced by the configuration of labour's alliances vis-a-vis the 'class and national dichotomy' in the key export industries. In cases like Chile where there was a high concentration of foreign-held capital yet these workers did not feel that these multinationals were aiding vigorous and sustained national development, they tended to perceive themselves as a separate, contending class to their employer and so made alliances with anti-capitalist forces, as their sense of imperialist exploitation was more acute. It is no coincidence that the Marxist-influenced United Labor Federation (CUT) in Chile became the most extensive labour movement in the region (1953-73), incorporating communists, anarchists and socialists before being disbanded by General Pinochet.

However, in cases where i) these structural conditions were reversed and capital ownership was relatively more concentrated in the hands of the *domestic* bourgeoisie ii) domestic capital was deemed to be successful at fostering national economic development (so there was a belief that class interests could be shared), and iii) there was also a higher degree of ethnic diversity in society, patriotic sentiments could be more easily turned *against* labour. These factors applied in Argentina which helps explain why its labour movement accepted a

corporatist governance model under Juan Peron (1946-55) which built an alliance with national industrialists.

Of course the darkest days for workers in South America were reserved for periods of military rule and especially its bureaucratic authoritarian regimes.ⁱⁱ The establishment of these Juntas must be understood in terms of the military and bourgeois elites' dissatisfaction with the 'populist' corporatist governments that preceded them, which they perceived as having allowed labour too much power, and being responsible for the destruction of their respective economies and moral orders alongside their political instability. Other sectors of the ruling class such as financial elites and foreign capital also pledged support. The Juntas' primary motivation was to discipline labour, restore "social order," depoliticise society (which they largely achieved) and impose strict fiscal and monetary discipline. That entailed the introduction of neo-liberal economic policies and the brutal murder and torture of labour activists and suppression of unions, many of which were disbanded or in some cases their leaders were directly appointed by new governments (Bronstein 2010:24).

Despite emerging from the process severely debilitated, the unions led opposition to military rule. General strikes and factory occupations littered the latter stages of military dictatorship periods in Argentina (1976-83) and Brazil (1964-85) for example. Prioritising appeals for transnational labour solidarity, including support from the World Confederation of Labor (later part of the ITUC), this severely damaged the reputation that these regimes held overseas and weakened their legitimacy to rule at home. Sustained mobilisations against the regimes were possible, in spite of brutal repression for different reasons. In Argentina, organised labour continued to be profoundly influenced by Peronism. As an ideology it had endured in workers' minds and could not be crushed by the military's "National Reorganisation Process" in the same way that a political party apparatus could. Meanwhile in Brazil by the 1980s, the unions became increasingly militant in their demands for salary

increases and democratic elections and were embedded within the opposition Workers Party (PT), which eventually won power in 2003.

Finally, during this period, even in those states that managed to escape authoritarianisms, the strengthening of organised labour was barely permitted. In purportedly more democratic political landscapes like Venezuela, the *Punto Fijo Pact* (1958) guaranteed rotational governance under a two-party system. Yet ruling elites developed more subtle ways to constrain class solidarity and labour politicisation, by atomising unions and confining them to plant-level organisations as ‘enterprise unions’. Thus their demands tended to restrict themselves to workplace issues which prevented politicisation. Further, the main union, the Venezuelan Workers Confederation (CTV) was allied to the Democratic Action Party (AD), so gains in worker rights when the party was in power were often rolled back or halted when COPEI (the Christian Social Party) enjoyed spells in power. It wasn’t until the 1989 *Caracazo* uprisings and CTV’s general strikes against AD austerity that national (rather than plant-level) labour unions, received collective bargaining rights and generous retirement and disability pensions following the passing of the Labour Law a year later. It also provided proof that Venezuela’s ‘exceptionalism thesis’ (of harmonious labour relations with capital) was a myth, even under a democratic governance regime (Ellner 1993).

Mixed fortunes: New democracies and market reforms (1980s-90s)

Having been at the forefront of mass resistance to both military rule and their neoliberal reforms, the return of liberal democracy in the 1980s and 1990s presented the unions with several contradicting circumstances. First they found that the very democracies that they had helped to restore, had then sought to extend their old dictatorships’ labour flexibilisation policies. In the context of the regional debt crisis and Lost Decade, the Washington

Consensus institutions' lending conditionality exerted intense pressure on the newly-elected governments to create more business-friendly environments that would attract foreign investment. Unions' political effectiveness declined as the public sector shrank, markets opened up to foreign competition, and from having once prioritised industrial harmony over profit-making by maintaining full employment, managers came under more pressure to reduce labour costs (Murillo 2003:100). Thus, new labour laws replaced permanent contracts with fixed-term ones, weakened protections against unfair dismissal, reduced limits on working-hours, encouraged outsourcing and subcontracting and also lowered redundancy pay. The labour governance question of the day was how to capture buy-in from union leaders in the face of renewed attacks on labour?

Secondly, democratisation reduced labour's relevance as the principal channel of citizen discontent (as it was during the military dictatorship periods). Their role was now supplanted by the ballot box or even by the burgeoning NGO sector (as state welfare duties were slowly outsourced to private agents).

However, the third paradox is the most intriguing and answers the governance dilemma posed above. Although the 1980s and 90s are frequently depicted as decades where labour rights were stripped away, unemployment soared and wages stagnated during the structural adjustment process, deeper analysis suggests a more nuanced outcome (Murillo 2003). The post-dictatorship states of these decades simultaneously actually relinquished their grip on the unions and permitted collective bargaining, freedom of association and industrial action once again, incentivising most union leaders sufficiently for them to grant initial consent for the overall liberal democratic project. Indeed among the new constitutions, guarantees of workers' rights featured prominently. For instance, Article 7 of the 1988 Brazilian Constitution included twenty-four separate worker protections, and Paraguay's 1993 Labour Code offered similar stipulations (Bronstein 2010:24). Indeed, an ILO study

confirmed that between 1990 and 2005, four out of the ten South American countries examined (Bolivia, Chile, Paraguay and Uruguay) either implemented only minor labour flexibilisation reforms or none at all (Vega Ruiz 2005). Only Argentina and Peru were deemed to have executed profound reforms.

It is only by disaggregating labour laws into their *individual* and *collective* components that one can understand this paradoxical growth of labour regulation during this era of neoliberal reforms. Murillo and Schrank's study (2010:257), found that across Latin America whilst ten out of sixteen such reforms rolled back *individual* labour rights (pertaining to wages, benefits and working conditions), thirteen out of eighteen labour reforms relating to *collective* rights (right to strike, collective bargaining, union organisation) actually *added* new protections.

To understand comparative national differences in labour's influence over the policy-making process in each country, the neoliberal labour governance model must be deconstructed by on the one hand examining the nature of the relationship between labour and the state in each case and secondly, exploring how multiple layers and distinct modalities of governance at international, regional, national-based levels weighed on decision-makers to establish policy.

First, in terms of organisational variables, governments granted greater concessions to the unions (in terms of collective rights) where labour's political allies were in power. For instance during the 1990s, President Menem and the Peronist Party adopted relatively union-friendly labour reforms such as the centralisation of collective bargaining, whilst refusing to bow to external pressure to end the CGT's representative monopolies. In this way, union members were compensated for the significant erosion of *individual* labour rights in each country (Murillo and Schrank 2010). Returning to our picket-line analogy, on the one side

unions continued to protest and gain advances in collective rights whilst on the other they capitulated to capital's to weaken rights for individual workers.

Then there is the question of under what circumstances the unions themselves were prepared to exercise militancy to pressure governments on policy. When labour-aligned parties were in government and threatened to enact policies that would prove contrary to labour's interests, the unions generally refrained from resorting to contentious action if no viable alternative political parties existed that were broadly sympathetic to labour's interests. This is because the unions feared that if their ally was toppled by more conservative political opposition, the subsequent government would be even more antagonistic to labour interests. However, if rival parties *did* exist that could embrace union demands, then the hitherto government-supporting unions were much more likely to use direct action to exert pressure on the allied governing party to change its policy direction. For instance it was partly competition from left-wing parties, Causa R and The People's Electoral Movement (MEP) that forced the hand of the CTV's union leadership in Venezuela to mobilise their members to oppose many of its ally, AD's proposed reforms in the 1990s (Burgess 2010). A related variable is 'inter-union competition' for members. Unions with monopoly control over the workforce found it easier to extract concessions from governments through negotiation, so tended to prefer such strategies. Meanwhile in sectors where various unions existed, it was more common for them to leverage influence through industrial action as each union sought to prove to workers that it was theirs that was fighting hardest for them.

Another factor that influenced labour's ability to affect the policy-making process at this time was the union structure and level at which collective bargaining occurred. Where unions were highly centralised into peak organisations and constituent members were bound by *industry* rather than *firm*-level agreements, they were able to exert greater political pressure on governments. For instance, the Bolivian Workers Central incorporated industrial

workers, peasants and many professions' unions and it is thought that the threat of mass and unified industrial action (as well as the careful construction of electoral alliances with anti-neoliberal parties) was a prime factor as to why Presidents Paz Zamora (1989-93) and Sanchez de Lozada (1993-97) refrained from delivering significant neoliberal labour reforms, despite pressure from the US Government to do so.

The dynamics between multi-layered external actors which either pressured South American governments and employers to increase worker protections, or in contrast flexibilise the labour market and erode them, were also a significant influence on national labour governance across the region. The ILO is an extra-state governance actor whose Core Labour Standards are extensively referenced in the design of modern labour law across the region. However, the problem has been the lack of enforcement. Even when national judges rule that ILO standards (already ratified by the state) have been contravened, national governments have often chosen to ignore such rulings. For example, Argentina remains in contravention of a 2008 Supreme Court ruling that its government is in breach of ILO Convention 87 (on free and democratic trade union organisation) by only granting legal recognition to the CGT (Bronstein 2010).

Further, influence over labour governance has also derived, perhaps unexpectedly from international quarters via union-supporting policy-makers and overseas governments' trade pacts. For instance the US Trade and Tariff Act (1984) obliges those states with preferential treatment to the US market (which includes several in South America) to defend Core Labour Standards whilst also permitting labour and human rights advocates to issue complaints for non-compliance to the US Trade Representative which can potentially sanction the state in question. Transnational alliances to oppose attacks on labour standards such as those established between activists in the US and workers in South America tended to

form in situations where domestic unions were weaker such as Paraguay (Murillo and Schrank 2010).

Other outside actors include international financial institutions like the IMF which lent on several governments to limit union formation and activity. Meanwhile some multinational corporations have been responsible for committing gross labour rights violations whilst others have signed up to self-regulatory schemes like the UN Global Compact that ensure minimum labour standards for their respective workforce.

However, Burgess (2010) asserts that the factor that most heavily mediates external actors' abilities to exert changes either in labour protections or labour market flexibility in South America is the legacy of the type of labour regime that prevailed at the point where the pattern of relations between the state and labour was established in the mid-twentieth century. For example in what he calls 'labour populist' regimes, this has been the role of strong unions with close ties to the state and/or a dominant political party (Argentina, Bolivia, Peru, Venezuela and Brazil). Meanwhile in Chile and Uruguay 'pluralist welfarism' legacies (generous social policies and strong rule of law in the context of weak union-state ties) has been the confounding variable. Meanwhile in Paraguay, intervention from extra-state institutions has been shaped by its paternalist dictatorship model (where authoritarian regimes offer high levels of protection for individual workers while demanding co-optation and/or quiescence by organised labour). Finally, in Colombia an almost insurmountable conservative oligarchy, (whether pursuing democratic or authoritarian governance) historically entailed public policies that strongly favour employers), which continues to this day.

However the strength of organised labour also impacted upon governance issues in other ways. In particular where party-union linkages had been historically embedded and had aided intense industrial development (in Argentina, Brazil, Peru), union influence on state

economic policy in a protectionist direction was much stronger than those without such linkages and where labour had not made alliances with populist parties (Chile, Ecuador, Paraguay).

Some interesting differences may also be observed in terms of how the state sought to compensate workers for the costs of implementing structural adjustment in the 1980s and 90s. When non-labour supporting parties were in power, divide-and-rule tactics were often put in place to prevent any effective labour movement resistance. For instance in Brazil in the mid-1990s when President Fernando Cardoso of the Social Democrats (PSDB) governed and the Democratic Movement (PMDB) was the largest party (neither of which had significant union allegiance), opposition to privatisations was defused by offering workers shares in affected firms such as Usiminas and Embraer.

Meanwhile where labour's party ally *was* in power and the union deemed the expansion of its collective rights to be *insufficient* to compensate for the attacks on individual worker rights, inevitably tensions increased and often resulted in significant political costs for the political party in question. Corporatism declined as a labour governance mechanism in South America in the 1990s as a result of the exhaustion of an accumulation and redistribution model that created a mutual dependency between the state (which required labour support to legitimately govern) and organised labour (which needed the state's economic subsidies). Meanwhile the model shifted towards one upon which servicing the debt became the goal; neoliberalism. Public perception of unions with corporatist baggage eroded as they were judged to have been complicit in the marketisation of the economy. As unemployment increased towards the end of the 1990s, so the governments' authority to rule their heavily indebted economies was also delegitimised (Coker 2001). Such a scenario occurred in several countries including Venezuela, where the pro-Chavista National Workers'

Union (UNT) which formed in 2003, split from the CTV and in Argentina as the CTA was founded as a rival union confederation to the CGT in 1991.

Labour resurgence under the Pink Tide? (2000s-2016)

Labour has enjoyed a revival under the ‘Pink Tide’ left-of-centre governments over the last two decades. These administrations believed that increased labour-flexibility had generated greater precariousness and wage-suppression, so had fundamentally failed. This prompted their attempts to reverse the neoliberal doctrine that stripped down *individual* rights by significantly raising the real-terms minimum wage (Argentina, Brazil, Chile, Uruguay), restricting the use of precarious contracts (Argentina, Chile), ensuring that labour law enforcement is strengthened (Brazil, Chile) and regulating subcontracting (Chile, Uruguay). These policy measures have been taken in spite of these South American governments manifesting distinct continuity with respect to their neoliberal *macroeconomic* orientation.

Even within this grouping, we witness significant differences in states’ policies towards labour. For instance, the restoration of *collective* rights and union-promoting measures such as expanding industry-wide bargaining in Argentina, Brazil and Uruguay represent real advances for social dialogue. Whereas Chile’s socialist-led Concertación (2005-09) then New Alliance (2013-) governments have neglected this entirely, emphasising *individual* rights instead (Cook and Bazler 2013).

Leftist governments in South America that have promoted labour rights have mistakenly been labelled ‘populist,’ and stand accused of having returned to traditional corporatist means by which governments relate to unions. However, such approaches ignore the nuances and novel ways that state-labour dynamics have been reconstituted since the early-2000s (ibid. 2013). Indeed, it is more prudent to understand the transformation in labour governance strategies as part of a ‘post-neoliberal’ politics (Grugel and Riggirozzi 2012;

Wylde, 2012) involving a hybrid of populist and corporatist industrial mediation which both revives traditional models from the mid-twentieth century whilst also preserving some elements of neoliberal state-labour relations like proliferating the use of casualised and informal labour.

Examples of how Pink Tide administrations have broken with past labour governance structures include a commitment to creating a more level playing field in the relationship with management at plant level, focusing on enhancing social equality and in particular incorporating previously neglected and less traditional sectors of the working class both in social dialogue and policy coverage. For instance, legal and institutional resources are now also dedicated to supporting worker-recovered companies, especially in Argentina, Brazil and Venezuela (Ozarow and Croucher 2014). Further, informal and precarious workers are being unionised and social policies have been created for unemployed and landless or rural populations such as *Plan Jefes y Jefas del Hogar Desocupados* in Argentina and *Plano Sufrida Agricultura Familiar* in Brazil.

Of course some countries have not elected such governments and have experienced almost unmitigated continuity with neoliberal forms of state-labour relations. In Colombia, endemic violence continues to be used by paramilitary death squads against labour activists, suppressing the power of unions to resist ongoing labour flexibilisation whilst the Uribe and more recently Santos Presidencies effectively turn a blind eye to such atrocities.

What is certain is that current typologies that are used to understand the differences between post-neoliberal governments in South America are inadequate. Future research requires a more sophisticated analysis for why each Pink Tide government pursued a particular labour governance path. This should encompass the variables discussed in this chapter such as union density and strength, political party allies, historical legacies surrounding the pattern of state-labour relations, openness to external actor pressure and

labour-market dynamics. Cook and Bazler's (2013) appeal for new categorizations of left regimes built on the role of unions and labour policies may benefit from engagement with Yates and Bakker's (2014) 'counter-neoliberalisation scenarios in this regard. Thus, one could for instance re-classify Peru (under President Humala 2011-16) and Chile (under President Bachelet 2005-09 and 2013-) as examples of 'residual neoliberalisation' whereby orthodox neoliberal ideology is questioned, but residual neoliberal tendencies persist in practice. Argentina (2003-15), Brazil (2003-15) and Uruguay (2004-) may be described as states where 'disarticulated counter-neoliberalisation' has been witnessed, whereby unions benefit from the promotion of market-constraining regulatory strategies within dispersed politico-institutional arenas but are embedded within a broadly neoliberal regulatory apparatus. Then there are those which may be grouped into the 'orchestrated counter-neoliberalisation' category whereby there is union-based and/or 'statist' coordination of market-constraining regulatory experiments across territories and scales, along with knowledge-sharing practices, policy-transfer, and institution-building that directly challenge neoliberal orthodoxy. Venezuela and to some degree Bolivia and Ecuador may fall under such a bracket. These re-categorisations need to be sharpened and elaborated upon but an initial attempt has been made here.

Contemporary challenges for labour governance

Labour unions remain a central actor in South America today. Studies confirm that it surpasses all other societal groups in terms of its ability to obtain policy concessions as a consequence of collective action efforts, because strikes by workers bestow significant political and financial costs to governments (Tenorio 2014). They are also less susceptible to demobilisation tactics from political leaders than other social actors.

However, political solutions to labour governance remain partially unresolved due to the culturally-embedded legacies of state development and corporatist industrial relations systems that endure today, but which are incompatible with both international labour norms and the realities of the post-neoliberal governance systems that have emerged in the last twenty years. These challenges include first, disparity persists between the region's relatively strong *de jure* labour legislation and *de facto* compliance failures. Weak rule of law at a national level helps to explain the high number of complaints lodged with the ILO by unions and labour activists and especially with its Committee on Freedom of Association. The regulatory role of the ILO and other extra-state institutions is likely to expand in the future but as we saw earlier, governments can ignore its non-sanctionable rulings. Ironically those worker protections that are written into trade pacts continue to present greater opportunity costs to governments if they are infringed for fear of loss of trade. Ultimately though, none of these are long-term solutions and the remaining left-leaning governments need to legitimise their pro-worker agendas by establishing or reinforcing compliance bodies to ensure that both domestic labour laws and international regulatory frameworks are adhered to.

Secondly, union density remains low across the region (twenty per cent) and with the exception of Argentina and Uruguay, membership continues to fall. Whilst this is part of a global trend, it is compounded by the fact that unions continue to operate at enterprise-level in most of the region, which means that a sizable part of the workforce cannot even form and join them as their firms are not large enough (Bronstein 2010). Further, it is much more difficult for such unions to improve labour protections and influence state policy if industrial action they take is atomised to plant level or if they fall outside of national collective bargaining agreements. Whilst enterprise-based industrial relations are deeply embedded in South America (outside the southern cone) and may not even be desired by the majority of

workers themselves, this sentiment may change during future economic crises when the need to organise beyond the firm's boundaries becomes starker.

Thirdly, the scope of labour law has narrowed as the proportion of workers in non-waged forms of work and whom are not covered by labour law expands. Whilst the average proportion of the working population across Latin America in informal work is forty percent, this reaches eighty percent in Bolivia, Peru and Paraguay (Melguizo 2015). The changing nature of work and low unionisation rates present a threat to the future role of labour unions in policy-making. Some (such as Argentina's two CTA factions) confront this by affiliating unemployed, informal or newly-formed cooperative workers. Meanwhile, new federal laws in Brazil and Argentina offer protections to informal workers such as the waste-pickers. Given that these transformations in modalities of work are likely to deepen, those South American unions that haven't already done so should consider broadening their membership criteria to include non-traditional sectors of the working class so as to reverse declining membership rates and adapt to the realities of the contemporary labour market. This will also help them to preserve their legitimacy among workers more broadly.

Finally, whilst several states have recently re-elected 'Pink Tide' governments (Chile 2013; Venezuela, 2013; Bolivia, 2014; Brazil, 2014; Uruguay, 2014) 'soft coups' have imposed conservative governments in Paraguay (2012) and Brazil (2016) and the election of President Mauricio Macri in Argentina in late-2015 appears to mark the resurgence of 'new right' governments in the region that prioritise corporate interests and labour flexibilisation. Meanwhile with Peru having elected the former IMF and World Bank economist Pedro Kuczynski and the President Maduro's government in Venezuela looking certain to lose the presidency in 2018 (if it lasts that long), the question is, what will the accession of the new right mean for the unions and labour governance in the region? In reality, many of the pro-labour policies enacted over the past two decades will be difficult to reverse. First, because

such governments will face unsurmountable labour resistance if they attempt to do so, especially in those countries with higher union densities, centralised union structures and militant labour traditions. Secondly, because extra-state actors like the ILO will continue to monitor any attempted rolling back of core standards such as collective bargaining. Thirdly, enhanced discourse around labour rights among international fora will act as pressure against these governments' attempts to reverse such gains too substantially.

However, one area that new pro-market governments may advance on (and will find support from the ILO) is to 'liberalise' the industrial relations system by weakening the corporatist privileges enjoyed by monopolistic union confederations. Their rationale will be to allow smaller unions to receive full legal recognition so that they can compete in a kind of 'market' for worker allegiance. Such are the nuances and complexities of labour governance in South America that if they succeed in achieving this, whilst weakening the largest union confederations, paradoxically they may help unite the broader labour movement in the longer-term so that all workers can stand united on one side of the picket line.

ⁱ A trade and economic policy that replaces foreign imports with domestic production as a means of reducing dependency on overseas markets.

ⁱⁱ Forms of authoritarianism based upon technocratic government and a professionalised, governing military instead of a popular strongman (see O'Donnell, 1973). Examples include Argentina (1976-83), Brazil (1964-85) and Uruguay (1973-85) and other forms of dictatorship with many but not all such traits in Chile (1973-89) and Paraguay (1954-92).